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Liaison Counsel for the Direct Action Plaintiffs

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

In re: Cathode Ray Tube (CRT)
ANTITRUST LITIGATION

Master File No. 3:07-md-05944-SC

MDL No. 1917

This Document Relates To:

ALL INDIRECT PURCHASER ACTIONS

Electrograph Sys., Inc., et al. v. Hitachi, Ltd., et al., No. 11-cv-01656;

Electrograph Sys., Inc., et al. v. Technicolor SA, et al., No. 13-cv-05724;

Siegel v. Hitachi, Ltd., et al., No. 11-cv-05502;

Siegel v. Technicolor SA, et al., No. 13-cv-05261;

Best Buy Co., Inc., et al. v. Hitachi, Ltd., et al., No. 11-cv-05513;

Best Buy Co., Inc., et al. v. Technicolor SA, et al., No. 13-cv-05264;

Target Corp. v. Chunghwa Picture Tubes, Ltd., et al., No. 11-cv-05514;

**DECLARATION OF PHILIP J. IOVIENO
IN SUPPORT OF DIRECT ACTION
PLAINTIFFS' AND INDIRECT
PURCHASER PLAINTIFFS' OPPOSITION
TO DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT BASED UPON
PLAINTIFFS' PURPORTED FAILURE TO
DISTINGUISH BETWEEN ACTIONABLE
AND NON-ACTIONABLE DAMAGES
UNDER THE FTAIA; AND DIRECT
ACTION PLAINTIFFS' OPPOSITION TO
THE LGE DEFENDANTS' MOTION FOR
PARTIAL SUMMARY JUDGMENT ON
FTAIA GROUNDS**

Judge: Hon. Samuel P. Conti
Court: Courtroom 1, 17th Floor
Date: February 6, 2015
Time: 10:00 a.m.

1 *Target Corp. v. Technicolor SA, et al.*, No.
2 13-cv-05686;

3 *Sears, Roebuck & Co., et al. v. Chunghwa*
4 *Picture Tubes, Ltd., et al.*, No. 11-cv-05514;

5 *Sears, Roebuck & Co., et al. v. Technicolor*
6 *SA, et al.*, No. 13-cv-05262;

7 *Interbond Corp. of Am. v. Hitachi, Ltd., et*
8 *al.*, No. 11-cv-06275;

9 *Interbond Corp. of Am. v. Technicolor SA,*
10 *et al.*, No. 13-cv-05727;

11 *Office Depot, Inc. v. Hitachi, Ltd., et al.*,
12 No. 11-cv-06276;

13 *Office Depot, Inc. v. Technicolor SA, et al.*,
14 No. 13-cv-05726;

15 *CompuCom Systems, Inc. v. Hitachi, Ltd., et*
16 *al.*, No. 11-cv-06396;

17 *Costco Wholesale Corp. v. Hitachi, Ltd., et*
18 *al.*, No. 11-cv-06397;

19 *Costco Wholesale Corp. v. Technicolor SA,*
20 *et al.*, No. 13-cv-05723;

21 *P.C. Richard & Son Long Island Corp., et*
22 *al. v. Hitachi, Ltd., et al.*, No. 12-cv-02648;

23 *P.C. Richard & Son Long Island Corp., et*
24 *al. v. Technicolor SA, et al.*, No. 13-cv-
25 05725;

26 *Schultze Agency Servs., LLC v. Hitachi,*
27 *Ltd., et al.*, No. 12-cv-02649;

28 *Schultze Agency Servs., LLC v. Technicolor*
SA, et al., No. 13-cv-05668;

Tech Data Corp., et al. v. Hitachi, Ltd., et
al., No. 13-cv-00157;

Viewsonic Corp. v. Chunghwa Picture
Tubes, Ltd., et al., No. 14-cv-02510;

Dell Inc., et al. v. Hitachi Ltd. et al., No. 13-cv-02171.

I, **PHILIP J. IOVIENO**, declare as follows:

1. I am a partner at the law firm of Boies, Schiller & Flexner LLP, liaison counsel for the Direct Action Plaintiffs (“DAPs”) in this matter, and I am licensed to practice law in the State of New York and admitted to practice *pro hac vice* before this Court.

2. Attached hereto as Exhibit 1 is a true and correct copy of Tab 22 to the Expert Report of Mohan Rao, Ph.D. dated April 15, 2014 in *Dell Inc. and Dell Products L.P. v. Hitachi, Ltd., et al.*, U.S.D.C., N.D. Cal., San Francisco Division, Case No. 3:13-cv-02171-SC.

3. Attached hereto as Exhibit 2 is a true and correct copy of pages 151-166 from the Expert Report of Dr. Kenneth G. Elzinga, Robert C. Taylor Professor of Economics, University of Virginia, dated April 15, 2014.

4. Attached hereto as Exhibit 3 is a true and correct copy of pages 77-83 from the Expert Rebuttal Report of Dr. Kenneth G. Elzinga, Robert C. Taylor Professor of Economics, University of Virginia, dated September 26, 2014.

5. Attached hereto as Exhibit 4 is a true and correct copy of excerpts from the deposition of Chih Chun-Liu taken February 19-21, 2013.

6. Attached hereto as Exhibit 5 is a true and correct copy of Exhibits 57 through 60 to the Expert Report of Janet S. Netz, Ph.D., dated April 15, 2014.

7. Attached hereto as Exhibit 6 is a true and correct copy of Meeting Minutes from meetings held on May 20, 1999 and May 21, 2001, marked Exhibit 1108E and 1178E.

8. Attached hereto as Exhibit 7 is a true and correct copy of pages 72-73 from the Expert Report of Janet S. Netz, Ph.D., dated April 15, 2014.

9. Attached hereto as Exhibit 8 is a true and correct copy of pages 84-88 from the Expert Rebuttal Report of Dr. Kenneth G. Elzinga, Robert C. Taylor Professor of Economics, University of Virginia, dated September 26, 2014.

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2 10. Attached hereto as Exhibit 9 is a true and correct copy of pages 75-76 from the
3 Expert Report of Janet S. Netz, Ph.D., dated April 15, 2014.

4 11. Attached hereto as Exhibit 10 is a true and correct copy of the Amended Plea
5 Agreement of Samsung SDI, *USA v. Samsung SDI Co. Ltd.*, No. 11 CR 162 (WHA) (N.D. Cal.),
6 ECF No. 29.

7 12. Attached hereto as Exhibit 11 is a true and correct copy of a letter from J. Sanders
8 of Gibson Dunn to me dated Sept. 17, 2014.

9 13. Attached hereto as Exhibit 12 is a true and correct copy of pages 5-6 from the
10 Expert Rebuttal Report of Dr. James T. McClave, dated September 26, 2014.

11 14. Attached hereto as Exhibit 13 is a true and correct copy of the Data Appendix to
12 the Expert Report of Mohan Rao, Ph.D. dated April 15, 2014 in *Dell Inc. and Dell Products L.P.*
13 *v. Hitachi, Ltd., et al.*, U.S.D.C., N.D. Cal., San Francisco Division, Case No. 3:13-cv-02171-SC.

14 15. Attached hereto as Exhibit 14 is a true and correct copy of page 54 from the
15 Rebuttal Expert Report of Janet S. Netz, Ph.D., dated September 26, 2014.

16 16. Attached hereto as Exhibit 15 is a true and correct copy of pages 1-2 from the
17 Expert Report of Janet S. Netz, Ph.D., dated April 15, 2014.

18 17. Attached hereto as Exhibit 16 is a true and correct copy of page 1 from the
19 Rebuttal Report of Alan S. Frankel, Ph.D., dated September 26, 2014.

20 18. Attached hereto as Exhibit 17 is a true and correct copy of pages 25-36 from the
21 Expert Report of Mohan Rao, Ph.D. dated April 15, 2014 in *Dell Inc. and Dell Products L.P. v.*
22 *Hitachi, Ltd., et al.*, U.S.D.C., N.D. Cal., San Francisco Division, Case No. 3:13-cv-02171-SC.

23 19. Attached hereto as Exhibit 18 is a true and correct copy of pages 119-123 from
24 the Expert Report of Janet S. Netz, Ph.D., dated April 15, 2014.

25 20. Attached hereto as Exhibit 19 is a true and correct copy of page 21, note 67 from
26 the Expert Rebuttal Report of Dr. James T. McClave, dated September 26, 2014.

27 21. Attached hereto as Exhibit 20 is a true and correct copy of pages 238-240 from
28 the deposition of Mahon Rao, Ph.D. taken June 10, 2014.

22. Attached hereto as Exhibit 21 is a true and correct copy of pages 95-96 from the Rebuttal Expert Report of Janet S. Netz, Ph.D., dated September 26, 2014.

23. Attached hereto as Exhibit 22 is a true and correct copy of page 32 from the Rebuttal Report of Alan S. Frankel, Ph.D., dated September 26, 2014.

24. Attached hereto as Exhibit 23 is a true and correct copy of pages 118-119 from the deposition of Mahon Rao, Ph.D. taken October 22, 2014.

25. Attached hereto as Exhibit 24 is a true and correct copy of page 6 from the Rebuttal Expert Report of Janet S. Netz, Ph.D., dated September 26, 2014.

26. Attached hereto as Exhibit 25 is a true and correct copy of pages 39-42 from the Expert Report of Janusz A. Ordovery, Ph.D., dated August 5, 2014.

27. Attached hereto as Exhibit 26 is a true and correct copy of pages 15-23 from the deposition of Janet S. Netz, Ph.D. taken October 31, 2014.

28. Attached hereto as Exhibit 27 is a true and correct copy of Defendants LG Electronics, Inc. and LG Electronics U.S.A., Inc.'s Objections and Responses to Direct Action Plaintiffs' First Set of Requests for Admission, dated July 10, 2014.

29. Attached hereto as Exhibit 28 is a true and correct copy of the Objections and Responses of Defendants Panasonic Corp. of North America, MT Picture Display Co., Ltd. And Panasonic Corp. (f/k/a Matsushita Electric Industrial Co., Ltd.) to Direct Action Plaintiffs' First Set of Requests for Admission, dated July 10, 2014.

30. Attached hereto as Exhibit 29 is a true and correct copy of the Objections and Responses of Defendant Philips Electronics North America Corporation to Direct Action Plaintiffs' First Set of Requests for Admission, dated July 10, 2014.

31. Attached hereto as Exhibit 30 is a true and correct copy of Toshiba Corporation's Objections and Responses to Direct Action Plaintiffs' First Set of Requests for Admission, dated July 10, 2014.

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2 I declare under penalty of perjury that the foregoing is true and correct.
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4 Executed on this 23rd day of December, 2014 at Albany, New York.
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6 /s/ Philip J. Iovieno
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8 Philip J. Iovieno
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